

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TYWON POSEY,)	
)	
Plaintiff,)	
)	NO. 10 C 3574
v.)	
)	MAG. JUDGE MORTON DENLOW
OFFICER ROCCO PRUGER,)	Judge Presiding
OFFICER ANTHONY KEANY,)	
OFFICER TODD MUELLER,)	
OFFICER JOSEPH LOPEZ,)	
UNKNOWN EMPLOYEES OF COOK COUNTY)	
SHERIFF'S DEPARTMENT,)	
COOK COUNTY SHERIFF'S DEPARTMENT,)	
CHICAGO POLICE DEPARTMENT, and)	
CITY OF CHICAGO,)	
Defendants.)	

**CITY DEFENDANTS' AGREED MOTION
TO SET CONCURRENT BRIEFING SCHEDULES**

Defendant Chicago Police Department ("Defendant CPD") and Defendant City of Chicago ("Defendant City"), by their attorney, Jonathan Clark Green, Senior Corporation Counsel of the City of Chicago, respectfully and jointly move this honorable Court to set briefing schedules for the following two motions to dismiss, previously set before Judge Bucklo in this matter, concurrent with the recent briefing schedule set for CITY DEFENDANTS' JOINT MOTION TO DISMISS COUNTS I AND III OF PLAINTIFF'S COMPLAINT: DEFENDANT CHICAGO POLICE DEPARTMENT'S AND CITY OF CHICAGO'S JOINT MOTION TO DISMISS (Doc. #27), originally filed on September 15, 2010, and COOK COUNTY'S MOTION TO DISMISS (Doc. #29), also originally filed on September 15, 2010.

In support of this Agreed Motion, City Defendants state as follows:

1. All parties recently consented to this case being heard in its entirety by Magistrate Judge Denlow. Notice of this consent was contained in the initial status report filed by Plaintiff on September 20, 2010, before Judge Bucklo, the original District Judge in the case, which also contained an outline of the parties agreed discovery schedule at the time, but which did not make reference to the two previously filed motions to dismiss which were pending at the time.

2. Just days prior to the initial status report being filed by Plaintiff, two motions to dismiss were filed in the case by various defendants, one CITY DEFENDANTS' JOINT MOTION TO DISMISS COUNTS I AND III OF PLAINTIFF'S COMPLAINT (Doc. #27), and the other COOK COUNTY'S MOTION TO DISMISS (Doc. #29), both filed on September 15, 2010 and noticed up before Judge Bucklo for September 22, 2010, the date of the previously scheduled initial status before Judge Bucklo, after the initial status report was filed.

3. This case was then re-assigned to Magistrate Judge Denlow via Executive Order prior to that initial status and hearing date for the motions to dismiss previously set before Judge Bucklo. Hence, the motions are still pending, but had not been re-noticed up before Magistrate Judge Denlow.

4. Due to Plaintiff's counsel's pre-set wedding date, and vacation and furlough time being taken by this counsel, the initial status before Judge Denlow was re-scheduled by agreement for last Tuesday, November 9, 2010, immediately following the return of the absent counsel. Just prior to that hearing, counsel for Plaintiff, the City and the County discussed a briefing schedule for the pending motions to dismiss, which now included a third motion to dismiss, CITY DEFENDANTS' JOINT MOTION TO DISMISS COUNTS I AND III OF PLAINTIFF'S COMPLAINT, which was filed at the end of October and noticed before Judge Denlow following the consent. The agreed proposed response date for all three motions was

November 30, 2010. No updated status report had apparently been filed which would have mentioned the prior two pending motions.

5. After discussing the case with Judge Denlow in open court, counsel were granted the agreed response date of November 30, 2010, with a reply date of December 7, 2010, and oral argument and ruling date of 12/21/10, at 10:30 a.m., also being set. Counsel at the time assumed it was the briefing date for all three pending motions to dismiss.

6. Upon receiving this Court's minute order setting the briefing schedule, it became apparent that there was some confusion caused by the over-lapping consent and original two motions to dismiss from last September. The new minute order makes reference only to the most recent CITY DEFENDANTS' JOINT MOTION TO DISMISS COUNTS I AND III OF PLAINTIFF'S COMPLAINT in the briefing and oral argument schedule.

7. After counsel for all parties were contacted by telephone to confirm the original understanding as to the briefing of all pending motions to dismiss, as well as this Court's minute clerk to determine the best course to update the docket system for the case, it was determined that the parties should re-notice the two prior motions to dismiss before Judge Denlow and also file a companion agreed motion to set briefing schedules for those two motions concurrent with the minute order's schedule for the most recent motion to dismiss, so all three motions could be heard at the same time, and the scheduling of this case can proceed in the most efficient manner, without unnecessary delay.

8. Counsel for the parties apologize for any confusion this may have caused the Court.

WHEREFORE, City Defendants, with the agreement of all the parties in this case, respectfully move this Honorable Court to set briefing schedules for the following two motions to dismiss, previously set before Judge Bucklo in this matter, concurrent with the recent briefing

schedule set for CITY DEFENDANTS' JOINT MOTION TO DISMISS COUNTS I AND III OF PLAINTIFF'S COMPLAINT: DEFENDANT CHICAGO POLICE DEPARTMENT'S AND CITY OF CHICAGO'S JOINT MOTION TO DISMISS (Doc. #27), originally filed on September 15, 2010, and COOK COUNTY'S MOTION TO DISMISS (Doc. #29), also originally filed on September 15, 2010.

Respectfully submitted,

/s/ Jonathan Clark Green

Jonathan Clark Green
Senior Corporation Counsel

30 North LaSalle Street, Suite 900
Chicago, Illinois 60602
(312) 744-0226
Attorney No. 06193934